

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|--------------------------|---|-------------------|
| SANDRA L. CAYOU, |) | 4:07CV3153 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | MEMORANDUM |
| |) | AND ORDER |
| MICHAEL J. ASTRUE, |) | |
| COMMISSIONER, SOCIAL |) | |
| SECURITY ADMINISTRATION, |) | |
| |) | |
| Defendant. |) | |

This matter is before the court upon Plaintiff's application for attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, in the amount of \$4,695.40. (Filing 17.) This sum represents 27.62 hours of work by Plaintiff's attorney, at an average hourly rate of \$170.00.¹ The Commissioner does not object to the amount of fees requested. (Filing 20.)

The court has determined that Plaintiff was indeed the prevailing party in this action, as the Commissioner's decision was reversed and the matter was remanded for further proceedings; the application for fees was filed in a timely fashion; and the position of the Commissioner was not substantially justified. Plaintiff therefore is entitled to an award of reasonable attorney fees.

While Plaintiff requests payment of attorney fees directly to counsel, the Commissioner represents that "the parties have agreed that Defendant will make the fee check payable to Plaintiff and mail the fee check to Plaintiff's attorney's address. Thus, Defendant respectfully asks the Court to enter its order in accordance with the

¹ This average hourly rate equals the statutory maximum of \$125.00, adjusted on a monthly basis to account for inflation since March 1996. (Filing 17-5.)

parties' agreement." (Filing 20.)

Accordingly,

IT IS ORDERED that:

1. Plaintiff's application for attorneys fees pursuant to the Equal Access to Justice Act (filing 17) is granted.

2. By separate document, the court shall enter judgment for Plaintiff and against Defendant, providing that Plaintiff is awarded attorney fees of \$4,695.40, payable by check to Plaintiff, and mailed to Plaintiff's attorney's address.

May 12, 2008.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge